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14
15 UNITED STATES DISTRICT COURT
16 DISTRICT OF NEVADA

17 WESTERN HOLDINGS, LLC, a Nevada
limited liability company,

Case No. 3:13-cv-00440-RCJ-WGC

18 Plaintiff,

19 vs.

[PROPOSED] DEFAULT
JUDGMENT ORDER ASSESSING
DAMAGES AGAINST DEFENDANT
METABOLIC RESEARCH, INC.

20 METABOLIC RESEARCH, INC., a
Nevada corporation, and DAVID P.
21 SUMMERS, an individual,

22 Defendant.

23
24 Plaintiff Western Holdings, LLC (“Western”) having filed an application for entry of
25 default judgment against Defendant Metabolic Research, Inc. (“Metabolic”) pursuant to Rule 55
26 of the Federal Rules of Civil Procedure; the Clerk of the Court having entered Default against
27 Metabolic on November 13, 2013; this Court having granted Western’s motion for default
28

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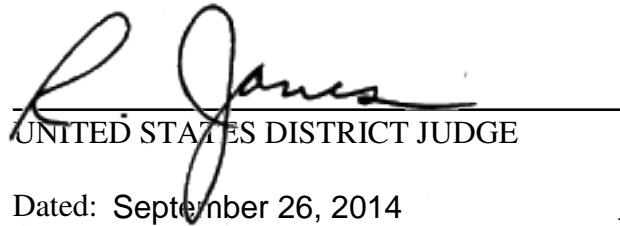
LEWIS ROCA
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1 judgment against Metabolic on November 26, 2013; and this Court having held a damages
2 hearing to assess the damages Metabolic owes to Western on September 26, 2014, it is therefore

3 ORDERED, ADJUDGED, and DECREED that

- 4 1. Metabolic is liable to Western for infringement of U.S. Patent No. 7,074, 812 ("the
5 '812 Patent").
- 6 2. Specifically, Metabolic's sales of the product Stemulite infringed Western's exclusive
7 licensing rights to use the technology claimed in the '812 Patent.
- 8 3. Metabolic is therefore liable to Western in the amount of a reasonable royalty rate
9 applied to Metabolic's sales of the infringing product Stemulite.
- 10 4. Based on Western's exclusive license agreement with the original licensor, 10 percent
11 is a reasonable royalty rate.
- 12 5. SEC filings indicate that Metabolic's sales of Stemulite from 2007 to 2010 resulted in
13 revenue generation of \$9,293,698.
- 14 6. Accordingly, Metabolic shall pay Western 10 percent of \$9,293,698 as a royalty, in
15 the sum of \$929,369.80.
- 16 7. Metabolic may also be assessed Western's reasonable attorneys' fees and costs, to be
17 determined upon the filing of a motion by Western within 30 days of this Order.

18 IT IS SO ORDERED:

19 
20 _____
21 UNITED STATES DISTRICT JUDGE

22 Dated: September 26, 2014

23 Respectfully submitted:

24 /s/ W. West Allen

25 W. WEST ALLEN

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